

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,)
Plaintiff,)
vs.) Cr. No. 21-524 KWR
JORGE DOMINGUEZ and)
LUIS MARISCAL-LOPEZ, AKA.)
LUIS MARISOL-LOPEZ, AKA.)
LUIS LOPEZ.)
Defendants.)

**UNITED STATES' SEALED SUPPLEMENTAL BRIEF
REGARDING CO-CONSPIRATOR STATEMENTS**

The United States hereby provides its Sealed¹ Supplemental Brief regarding Co-Conspirator Statements pursuant to Federal Rule of Evidence 801(d)(2)(E), as directed by the Court in its Order for Supplemental Briefing. (Doc 93). The United States moves this Court to make pre-trial findings that such evidence is admissible as either coconspirator statements, or admissible under other exceptions or exclusions from the hearsay rule.

L FACTS

Several co-conspirators, including Defendants Jorge Dominguez and Luis Mariscal-Lopez, as well as unindicted co-conspirators Crystal Ramos (deceased), J.T. (juvenile at the time of offense and daughter of Ramos) and Johnny Black (who took part in the conspiracy and pleaded guilty to being an accessory after the fact), collaborated to kidnap and kill Jane Doe. Jane Doe used Ramos's debit card to withdraw \$400 without her permission and did not repay it.

¹ The United States files this under seal due to the references to the Grand Jury proceedings and the inclusion of the minor co-conspirator's name from the selected portions of the documents.

The conspirators planned amongst themselves to lure the victim, Jessica Mora, into the home at 302 McKracken Lane, in Espanola, N.M., have Defendants lay in wait, and then torture her to death.

Ramos and J.T. communicated with Mora over Facebook Messenger. They planned to meet her at Buffalo Thunder Resort and Casino, and then they brought her back to the house on McKracken, ostensibly to hang out and use drugs. However, once she arrived, Ramos, J.T., and Defendants assaulted her. They kicked, punched, and used dangerous weapons to strike her. They drug Mora to a back room they covered in plastic to prevent blood stains on the wall and floor, and began to torture her. They tied her to a chair and continued to strike her with various objects, including the butt of a long gun or shotgun. Ramos also used a drill to torture the victim. Jane Doe died as a result of the abuse.

The same group of individuals, along with Johnny Black, conspired to dispose of the body. They cleaned up the house, wrapped the body in plastic, and placed it in the rear of a vehicle. They drove around with the body in the rear of the vehicle for a few days. Together they attempted to dispose of the body by going to a remote location near Velarde, N.M., and burned the body and evidence in two fire pits. At some point, possibly due to seeing helicopters in the area, they smothered the fire and collected much of Mora's remains. They decided to place Mora's remains in a large toolbox. Later they poured cement or concrete over her remains in the toolbox. Weeks later, Johnny Black, and likely a co-conspirator, took the toolbox with the remains to a location near Ojo Caliente, N.M., and buried the toolbox in a shallow grave near the river.

II. ADDITIONAL LEGAL ARGUMENT

There is a strong judicial preference for resolving at least part of the question of the

admissibility of a co-conspirator's statement before trial and outside the presence of the jury in at a *James* hearing. See *United States v. Urena*, 27 F.3d 1487, 1491 (10th Cir. 1994); *United States v. James*, 590 F.2d 5753 (5th Cir. 1979). Such a hearing is intended to reduce the risk of prejudice that would occur if a co-conspirator's statement was "provisionally admit[ted]" into evidence at trial and then the party offering the statement failed to "connect up" the statement with other evidence "showing the existence of a predicate conspiracy[.]" *Urena*, 27 F.3d at 1491. Accordingly, "whenever possible" the prosecution should be required to "first introduce ... proof of the conspiracy and, subsequent thereto, to establish the connection of the defendant with the conspiracy before admitting hearsay declarations of co-conspirators." *United States v. Peterson*, 611 F.2d 1313, 1330 (10th Cir. 1979). Importantly, *Urena* and *Peterson* do not require that the final element for admission of co-conspirator statements (i.e., whether the statements were made in the course of and in furtherance of the conspiracy) also be decided as a preliminary question of fact at a *James* hearing. To hold otherwise would threaten to transform such preliminary hearings into trial. Instead, trial courts may assess whether a statement was made in furtherance of a conspiracy at the conclusion of the evidence. See *Peterson*, 611 F.2d at 1330-31 (whether proof is made at a *James* hearing "or the co-conspirator's statement is provisionally admitted at trial, the trial court must determine as a factual matter whether the prosecution has shown by a preponderance of the evidence" that the three-part test was satisfied).

Although a preponderance of the evidence standard applies when the court makes its final determination on the admissibility of co-conspirator statements "at the conclusion of all the evidence," a less restrictive standard applies when making a "threshold determination" about the predicates for admission of a co-conspirator's statement during "the initial stages of the proceedings." *Id.* In the initial stages, the prosecution need only put forth "substantial,

independent evidence,” meaning “more than a scintilla,” and “such evidence as a reasonable mind would accept as adequate to support a conclusion,” even if it is “less than the weight of the evidence.” It is only at the conclusion of all of the evidence that the prosecution has the higher burden of meeting the three-part test for admissibility by a preponderance of the evidence. *Id.* Ultimately, the determination of whether to admit co-conspirator statements into evidence is left to the sound discretion of the trial judge, *United States v. Barrett*, 933 F.2d 355, 358 (2d Cir. 2002); *United States v. Powell*, 982 F.2d 1422, 1432 (10th Cir. 1992), and will not be disturbed on appeal absent a showing of clear error, *United States v. Dukagjini*, 326 F.3d 45, 60 (2d Cir. 2002); *United States v. Stephens*, 964 F.2d 424, 434 (5th Cir. 1992); *United States v. Marin*, 7 F.3d 679, 690 (7th Cir. 1993); *United States v. Perez*, 989 F.2d 1574, 1580 (10th Cir. 1993).

In this Motion, the United States makes its good faith effort to identify each statement it intends to offer pursuant to Rule 801(d)(2)(E), but respectfully submits that the statements identified below may not be exhaustive, and gives notice that the testimony offered at trial concerning the statements may vary from the summaries offered herein. Several of the co-conspirator statements that the government seeks to offer at trial are oral statements that were not contemporaneously recorded, and which will be presented through witness testimony only. As further set out below, the government respectfully submits that an exhaustive cataloging of co-conspirator statements in advance of trial is not a requirement under the Tenth Circuit’s *James* hearing jurisprudence. Rather, the Tenth Circuit defines a *James* hearing only as a hearing outside the presence of the jury to determine whether the predicate conspiracy existed. See, e.g., *United States v. Owens*, 70 F.3d 1118, 1123 (10th Cir. 1995). The United States respectfully reserves its right to argue that co-conspirator statements satisfying Rule 801(d)(2)(E) that are adduced at trial, but which are not cataloged below, despite the government’s good faith effort at

completeness, should nonetheless be received in evidence.

III. STATEMENTS FOR REVIEW

A. Statements from Crystal Ramos

On March 14, 2018, Det. Amber Marez was looking for then missing person Jessica Mora, and went to see Crystal Ramos. Det. Marez identified Ms. Ramos as a friend of Jessica Mora on Facebook and sought additional information to try to find Ms. Mora. Det. Marez speaks to Ms. Ramos at her front door, and the interaction was recorded. Crystal Ramos admits to knowing her, but denies knowing where she is. Ramos, Black and likely others placed Mora's remains in a toolbox covered in a thin layer of concrete, and there is reason to believe the remains lay hidden in a shed or garage on the property at the time of the interview. Black notes in his interview on April 10, 2020, that he moved the body from the residence at 302 McKracken to the burial site near the river at about this time of year. Abeyta states the body was in the toolbox on the property for three months, which would be until mid-April 2018.

There are four statements requested to be admitted, all are between Det. Marez and Crystal Ramos from this one interaction on March 14, 2018. The general reason for all three statements to be admitted is this interaction served as subterfuge to continue the conspiracy. The conspiracy to dispose of the remains persisted, especially while some of the body was kept on the property. Ramos misleading Det. Marez served to further the conspiracy.

1. Initial Interaction

The transcript has errors in the names: "More" should be "Mora" and "Detective Miles" should be "Detective Marez." The following comes from Page 2, starting on lines 3-24:

3	BY DETECTIVE MILES:
4	Q Hi.
5	A Good morning.
6	Q I'm looking for Crystal.
7	A That's me.
8	Q Hi. I'm Detective Miles with the Sheriff's Office in Santa Fe, and I am currently looking for Jessica.
9	
10	A Which one?
11	Q More.
12	A The gay one?
13	Q Uh-huh.
14	A I haven't seen her since -- my birthday is January 1st -- a couple weeks after my birthday.
15	
16	Q Okay, how -- do you have -- you had contact with her or anything? Because right now she's listed as a missing person.
17	
18	A I have seen her -- we're really not even getting along right now.
19	
20	Q Okay.
21	A She had gave me some fake money.
22	Q Okay.
23	A She stole some money from me, then she paid me back with fake money.
24	

Additionally, these statements are non hearsay statements as they are not being offered for the

truth of the matter asserted, we are not asserting Ms. Ramos and Ms. Mora had been in recent contact or had been given fake money.² Rule 801(c)(2). In the alternative, any motive provided regarding the money owed to Ramos would come as a statement against interest. Ms. Ramos died in a shootout with police in Colorado on June 14, 2018. Rule 804(b)(3).

2. Misdirection of when she was around

The following is from page 3, lines 11-18:

11	Q Do you know of anybody that I could talk to that could --
12	that still talks to her?
13	A You know what --
14	Q Or --
15	A When she was out here -- I had heard she was out here,
16	and I have no idea who she was with out here.
17	Because she had told me she was in Albuquerque, but she
18	was here.

Again, this is in furtherance of the conspiracy as it shows misdirection, that Ms. Mora could be alive and where she might be. These would also be offered as non-hearsay in that they are not being offered for the truth of the matter asserted.

3. ATM Card

The following is from page 4, lines 6-22

² Some of the alternative theories, particularly those based on hearsay exceptions will be dealt with in future motions in limine for the admission of evidence, but are included now as reference.

6 Q And so that's why I'm trying to just track down anybody
7 else that might have talked to her. Because I really just want to make
8 sure she's okay.

9 A She's okay, yeah.

10 You know, I can't tell who she knew around her. Like I
11 said, she took my ATM card. And I didn't even notice for like about a
12 week or so.

13 And then she went to Albuquerque, and she was
14 (indiscernible). So not at all did I think it was her.

15 Q Yeah.

16 A And it was her.

17 Q Okay.

18 A And it was out here when she took it.

19 So I'm like --

20 Q And does she use it in Albuquerque or --

21 A No. She -- all she do, was she was at the ATM over here
22 and pulled out four hundred bucks.

Similar to first statement, this continues misdirection of the conspiracy as she states Mora is ok. It also provides the motive for the conspiracy, the taking of the money. The taking of the money would also be admissible as a statement against interest from an unavailable party.

4. Continued communication as misdirection

The following is from page 6, lines 15-21:

15	on that card. If you could just --
16	A All right, now. I'll message her and see if I can get a
17	response back or something at least.
18	Q Okay, awesome.
19	A Yeah, so we haven't talked.
20	Q Right. All right, yeah.
21	A I'll kick her in her mouth if I could.

This statement continues the conspiracy by providing misdirection, that Ramos will reach out and attempt to communicate with Mora. This statement is also non-hearsay as it is not offered for the truth, whether or not she communicated with her is irrelevant. The misdirection to those looking for her, is the relevant part.

B. Statements from Jorge Dominguez

The United States withdraws item 5 from list of proposed evidence to be submitted. Dominguez made multiple statements to law enforcement. His statements first identified the conspiracy. His statements describe Ramos as the leader, who came up with the plan to kidnap and torture Mora. He also describes the ongoing conspiracy for the disposal of the evidence and remains that stayed on the property for several months after they killed Mora.

1. Dominguez's April 11, 2018, statement to Espanola Police Detective Byron Abeyta
 - i. J.T. describes where they finally disposed of the remains. (p.38)

This marks the end of the conspiracy as they finally disposed of the last of the remains and other effects from the kidnapping and killing. They worked as a group to dispose of the remains, and this was the last step of the conspiracy to finally conceal the remains.

8	Q Where'd you see it, where —
9	A It was there in the backyard. It's not there no more. But
10	to me, Jazz told me that it was — that they buried it somewhere by the
11	river, that it's really easy to find.

ii. Initial description of plan to torture (p. 45)

5	A Well, that day when we were there, they were telling us to
6	get ready to get someone to — that was coming because they were
7	going to beat them up and, you know, that they were going to torture
8	them. So as the day kept getting closer and closer to that time that
9	she was getting there, when she was actually on the way, Tosh started
10	shaking (indisc.)
11	Q (Indisc.) think he knew a little bit?
12	A He knew — he did know. I know because they told us
13	about it (indisc.) —
14	Q Oh, they told you about —
15	A -- to be involved in it.
16	Q They told — well, what did they say, like what do you
17	mean?
18	A Like once she walked in, they wanted us to grab her and
19	throw her on the floor and start like beating her up.

Here Dominguez details the initial plans of the conspiracy to kidnap and torture Mora. He explains this took place over several days. Dominguez knew he, and the people at the home when Ramos returned, were to beat her and torture her.

2. Dominguez's April 16, 2018, statement to FBI Agents Marcum and Marycz

i. Burn Site

Dominguez describes the actions the individuals took during the conspiracy to dispose of the remains. The statements demonstrate the existence of the conspiracy, and the actions the collective took to dispose of the evidence and body.

1 Q And what did — you said you saw —

2 A "Boo Boo" was just throwing branches and branches and
3 cutting down trees and throwing them on top and throwing them on
4 top. And then Crystal and Jasmarie were just there just — Crystal was
5 cooking so whatever the porkchops I think they were. And chuletas,
6 well, that's what we call them, chuletas. And she was cooking that and
7 Jasmarie was just helping "Boo Boo" just throw more and more on the
8 fire. And Johnny was just standing there just looking at it.

9 Q So Crystal —

10 A Like just moving with the shovel, just moving it around.

11 Q Okay.

12 A And like well —

13 Q So the four of them were there. Was there anyone else or
14 just those four?

15 A No, no, just them four.

16 Q Okay. And did you see anything, did you see any items
17 that they threw in there, like distinctive?

18 A I saw my strap that I used to pull the cars, I saw that
19 there. And then when we went to go look the other day, me and the
20 detective, I saw the hook to my strap. I told him, well, there's my
21 strap. I even kicked it, like there's my strap, that should be good
22 enough evidence for you guys to come and check this place.

23 Q So did you see anything else, her clothes? Did you see the
24 body?

25 A I saw a piece of it, it looked like — you know how when

1 you cook the pigs and they get like all like shiny, well, like the — her
2 foot was sticking out and you could see the like this part right here.

3 Q Her heel.

4 A Yeah.

5 Q Okay, so you saw that in the fire.

6 A Yeah.

7 Q Okay, did you see any other pieces of clothing or anything?

8 A No, I didn't. After — I guess they had her wrapped up and
9 they just threw her all together in there —

10 Q Wrapped (indisc.)

11 A -- because I just saw the — I just saw like her foot, part of
12 her foot, just this part like from here to here.

13 Q Do you know what she was wrapped up in?

14 A It was black and white blanket.

15 Q Okay.

16 A Black and white blanket and I don't know what else

17 because it looked like they wrapped her up a couple of times with other
18 things.

ii. The plan (p.89-90)

9 MR. DOMINGUEZ: The plan was to for — they
10 wanted me and Jessica to beat her, to hit her with the shotgun —

21 MR. DOMINGUEZ: When she walked in the door, to
22 hit her and get her on the floor and just beat her up. And she wanted
23 to torture her for a week, that's what she wanted to do.

24 SPECIAL AGENT MARYCZ: And this was Crystal's —
25 MR. DOMINGUEZ: Yeah, Crystal's plan.

3 Q So Crystal is the one that said — she is the one that said, I
4 want to do this —

5 A Yeah.

6 Q -- to Jessica.

7 A This bitch (indisc.)

8 Q And she came up with the plan and then she gave people
9 tasks. She said, you're going to do this when you come in — when she
10 comes in the door, you're going to do this when you — so she came up
11 with all that.

12 A Yeah. She was —

13 Q Did that happen, did they torture her or was it —

14 A No. She —

15 Q -- all —

16 A I guess they overdid it right away and she died right away.

17 Q So was the eventual plan to kill her no matter what?

18 A No.

19 Q So just to torture her.

20 A Yeah.

21 Q For a week but not necessarily — the plan at least wasn't
22 necessarily to kill her.

23 A No, it wasn't to kill her.

24 Q But, I mean, she said she drilled her. She took a drill.

25 A Yeah.

Dominguez provides a statement about the plan from Ramos. The plan consisted of Dominguez to hit Mora with the shotgun. The discussed plan was for Dominguez to get her on the floor and

beat her up. They planned to torture her for a week. Ramos operated as the leader and gave tasks for the others to do. The conspiracy involved beating and torturing Mora for a much longer period of time, but they became overzealous in their torture and killed her.

3. Dominguez's statement on May 31, 2018, to FBI Agents Marcum and Marycz

This statement is from the police report rather than the transcript. Embedded within it are statements by the co-conspirators or things Dominguez will be able to testify to against Mariscal-Lopez, assuming Dominguez's trial goes first or should he plead guilty. It includes implicit statements, as well as directives without the precise language. At trial, Dominguez should be able to testify regarding these explicit statements.

CRYSTAL RAMOS ("RAMOS") wanted to lure JESSICA MORA ("MORA") to her house so they could beat her up and torture her for weeks. RAMOS wanted to teach MORA a lesson and show her who's boss after RAMOS learned that MORA stole money from her debit card. RAMOS planned to pick up MORA from Buffalo Thunder Resort and bring her back to 302 McKracken Lane where the attack would occur.

On the night of the murder, RAMOS called MORA via Facebook Messenger and pretended to be friendly with her. RAMOS and JAZMERA TORREZ ("TORREZ") drove to Buffalo Thunder Resort and brought MORA back to 302 McKracken. The following people were present at 302 McKracken when RAMOS called MORA: RAMOS, TORREZ, DOMINGUEZ, JESSICA ROMERO ("ROMERO"), JOHNNY BLACK ("BLACK"), "TOSH" and "BOO-BOO." The following people were present at 302 McKracken when MORA arrived: DOMINGUEZ, ROMERO, RAMOS, TORREZ, and BOO-BOO.

DOMINGUEZ and ROMERO were in RAMOS' bedroom when MORA arrived. RAMOS came in and tried to convince them to help attack MORA with the butt-end of a shotgun, but ROMERO was too scared. When they opened the bedroom door and looked in the living room, TORREZ was hitting MORA with the butt-end of a .22 rifle and BOO-BOO was hitting MORA with a pipe that had tape on one end. MORA laid unconscious on the floor as they continued to hit, kick, and stomp her. RAMOS then got a power drill and drilled into MORA's side. DOMINGUEZ believed MORA was still breathing at this time.

DOMINGUEZ told ROMERO to close the bedroom door; he then heard the others drag MORA's body to TORREZ's bedroom. RAMOS returned to her bedroom and told DOMINGUEZ and ROMERO they were going to start torturing MORA. BOO-BOO then appeared and said, in Spanish, that he "took her last breath."

BOO-BOO and TORREZ wrapped MORA's body in clear plastic, black trash bags, and a black and white striped blanket. RAMOS lined TORREZ's bedroom with the clear plastic before MORA's arrival so blood would not get on the floor or walls. BOO-BOO then dragged MORA's body to the laundry room.

BLACK left 302 McKracken before MORA's arrival so he could get ROMERO's Hyundai Santa Fe and cover the interior with plastic. He returned after the murder and parked the car behind the residence. He and BOO-BOO placed MORA's body in the rear of the SUV and drove off.

DOMINGUEZ and MORA slept in the living room for the next two days. When DOMINGUEZ woke up, BOO-BOO told him everything had been taken care of, but BLACK said they still had to take care of the body. DOMINGUEZ took some pain medication for his foot and fell back asleep for approximately 1-2 hours. He was awoken by BLACK and RAMOS telling him and ROMERO they all needed to leave the house right away to dispose of MORA's body. DOMINGUEZ believed RAMOS and BLACK forced them to go so they could hold it over them.

DOMINGUEZ, ROMERO, BLACK, RAMOS, and BOO-BOO, all got into a lifted purple Silverado which RAMOS and BLACK borrowed from a friend who lived on Ohkay Owingeh pueblo. DOMINGUEZ knew the location of their friend's house, but did not know their friend's name. DOMINGUEZ was told BLACK and RAMOS drove MORA's body around for two days in ROMERO's SUV. BLACK and RAMOS then left ROMERO's SUV at the Ohkay Owingeh residence and borrowed the Silverado to transport MORA's body to the desert. BLACK and RAMOS put MORA's body in the bed of the Silverado along with a chainsaw, sleeping bags, BLACK's toolbox, plastic bins, gas cans, and two white buckets. BLACK and RAMOS covered everything with a tarp; they wanted it to look like they were going camping.

They drove to an area in the desert that BLACK and RAMOS thought would be the most hidden location to burn MORA's body. RAMOS and BOO-BOO dragged MORA off of the truck; she was wrapped in plastic from TORREZ's bedroom, as well as tarp and a blanket. BOO-BOO tried to dismember MORA with the chainsaw, but it got caught on the blanket. The two of them then dragged her to where a fire had already been started; they put her entire body in the fire. BLACK tended to the fire and BOO-BOO added gas and tree branches each time the fire began to die down.

DOMINGUEZ and BLACK left for several hours to get food and methamphetamine. When DOMINGUEZ returned, ROMERO was crying because she thought they were going to kill her next. They burned MORA's body for

approximately six hours, from 4AM - 11AM. DOMINGUEZ and ROMERO did not participate in the burning of MORA's body; DOMINGUEZ cooked steaks and consoled ROMERO.

RAMOS began freaking out because helicopters were flying nearby. BLACK used a shovel to scoop out any items that did not completely burn and put them in his black toolbox. Some of the items BLACK scooped out included gloves, tape, pieces of plastic, clothes, and any remaining body parts. The toolbox was put in the Silverado and taken back to 302 McKracken. They kept the toolbox in the backyard, next to the Mitsubishi Eclipse and a fence.

Approximately 2-3 weeks later, DOMINGUEZ was working on the Eclipse and opened the toolbox. He saw a thin layer of cement, and approximately 3-4 inches of MORA's spine poking through. The toolbox had duct tape on it, but DOMINGUEZ was able to open it easily. DOMINGUEZ did not know MORA's torso was in the toolbox.

C. Statements from Robert Abeyta

Abeyta knew of the plan to kidnap and kill Mora. They openly discussed it in front of him. There may have been attempts to recruit him into the conspiracy. He heard them planning it before it happened from Ramos, Dominguez, and Romero. He knew that Mariscal-Lopez, Black and J.T. were involved in the conspiracy and the roles they could play. He heard the plans to prepare the room they eventually tortured Mora in with plastic and trash bags. Abeyta describes these conversations as ongoing for a week leading up to it.

The following statements come from the interview Robert Abeyta provided to FBI Agents Marcum and Taylor, in the presence of former AUSA Tierney and Mr. Abeyta's attorney on July 5, 2018. It appears the statements come from co-conspirators Black, Dominguez, Ramos, and possibly Mariscal-Lopez and J.T. There is some inherent vagueness when the statements come in the form of police reports rather than transcript or recordings. Due to that vagueness, some of the statements included could come from information garnered from a statement by a co-conspirator or knowledge from witnessing events. The knowledge from witnessing the events

would be admissible, without the need for a *James* hearing. In the second statement, which predates the first, it includes Ramos and Black describing a morbid plan to eat around Mora's body after the beat her put her on the table, almost like a trophy.

1. Statements from July 5, 2018

i. Plan

CRYSTAL RAMOS, JORGE DOMINGUEZ and JESSICA ROMERO were talking openly about planning the murder of JESSICA MORA. TOSH would leave when they would start talking this topic because he did not want to be around it. RAMOS, DOMINGUEZ and ROMERO thought TOSH was telling people about what he overheard.

DOMINGUEZ and "BOOBOO" were going to grab MORA from BUFFALO THUNDER and go at her. ROMERO told TOSH that DOMINGUEZ killed MORA for ROMERO. DOMINGUEZ choked MORA when she walked into the house. After she died DOMINGUEZ and BOOBOO cut

MORA up.

ii. Plan cont.

RAMOS, BLACK, ROMERO, DOMINGUEZ, BOOBOO and JAZMERA TORREZ (JAZMERA) all knew the plan to kill MORA. They prepared a room to kill MORA in by putting trash bags on the walls and floors. The trash bags were black and went about half way up the wall and the floor was covered. BOOBOO put up the plastic in the room. They discussed prepping the room for about a week; TOSH would try to distance himself from them whenever they talked about prepping the room. DOMINGUEZ chopped up MORA in the shed. RAMOS talked about eating dinner around MORA's body placed out on the kitchen table.

iii. Initial justification for why she wanted to kill Mora

RAMOS found out about MORA stealing her money around Christmas time. RAMOS said she had the footage and was going to pick up MORA.

iv. Cover up

They kept MORA's body in the box behind BLACK's house for three months after

the murder.

v. Plan cont.

BLACK participated in the planning of MORA's murder. It was BLACK and RAMOS's idea to put plastic down in the room. DOMINGUEZ choked MORA. DOMINGUEZ,

BOOBOO, and BLACK cut up MORA's body. JAZMERAЕ was surprised that BLACK was not there when the murder occurred.

2. Statement from May 3, 2018 (transcript pp. 56-57)

10 Q What did they say? What did you hear?

11 A They kind of said, like, "Oh, well, what you -- what you call
12 it, that person" -- because they weren't using names.

13 Q Okay.

14 A Said, "That person -- we would kind of (indisc.) put it on
15 the table and eat dinner," and shit like that. And I was, like, you guys
16 are even fucking full-blown killers. Like, you know what I mean? Like,
17 what the hell do I want to hear that shit for?

18 Q They were saying that they were going to eat her?

19 A No, that they were going to put it on the table while they
20 eat dinner and shit, and I was, like --

21 Q Put her body on the table while they ate?

22 A Yeah. And I was, like, you guys ain't that fucking -- like,
23 you know what I mean? Like, (indisc.) like, I don't -- I said, "I don't
24 want to hear that shit." So, they stopped.

25 Q But they said that.

57

1 A Yeah.

2 Q Who said that? Crystal or Johnny, or both?

3 A They were kind of like bragging about it, kind of laughing
4 and shit, so it was kind of like a -- like, all of them were just kind of
5 putting it -- like, you know what I mean?

D. Statements from Jessica Romero

The first set of statements from Romero are to FBI Agents Marcum and Marycz on May 31, 2018. The second set of statements are from April 13, 2021, to Agent Cobb and the United States Attorney's Office. The United States also offers a new statement from Jessica Romero from April 13, 2021. This statement is similar to the one made to Agent Cobb, but it was made to the Grand Jury. In them, she described what the conspirators were doing and saying in preparation for, and during, the kidnapping and assault. Dominguez removes Romero before Mora is killed by locking Romero in a room with drugs. Romero's descriptions of what was said as they planned the kidnapping and torture comes in as statements of the co-conspirators. Her knowledge comes from the statements of the co-conspirators, and she quotes them at various points. This testimony could also come in under *res gestae* evidence describing the events leading up to the kidnapping, and how she was treated by Ramos and Black. *See United States v. Kimball*, 73 F.3d 269, 272 (10th Cir. 1995).

1. 2018 account

i. Theft from bank account

MORA stole money from RAMOS's bank account. RAMOS's card went missing which was strange because RAMOS usually hides her bank card. RAMOS originally thought it was ROMERO or BLACK who stole her bank card. ROMERO denied ever using the bank card. RAMOS and BLACK slashed ROMERO's tires

so she couldn't leave the house. BLACK threatened to poison ROMERO. RAMOS got a message from the bank that the surveillance footage of the person using her bank card had come in; RAMOS and ROMERO went to the bank to review the footage together. RAMOS and ROMERO observed MORA walking up to an ATM and using RAMOS's bank card. This incident ended the friendship between ROMERO and RAMOS because ROMERO had proven RAMOS wrong about who used the bank card. RAMOS and ROMERO did not speak after that day.

ii. Description of what occurred at 302 McKracken and was said that day

RAMOS called MORA and wanted to set her up and confront her about the stolen money. RAMOS said she wanted to show MORA, "who was boss." RAMOS said they needed to "take her out." RAMOS wanted to kill MORA. RAMOS eventually called MORA and told her that ROMERO and BLACK were having an affair and took off with RAMOS's money in order to lure MORA to the house.

On the day of the murder TOSH took off from the house; TOSH did not want to be involved in the murder. ROMERO couldn't bring herself to cut or beat up MORA.

When MORA walked in to the house, RAMOS looked at TORREZ and DOMINGUEZ. TORREZ and RAMOS started hitting MORA and DOMINGUEZ was yelling at MORA. They pushed MORA into a room. The room they pushed her into was down the hall to the right, on the left hand side. They tied MORA to a chair. TORREZ, RAMOS, and BOOBOO started hitting MORA.

BLACK showed up later in ROMERO's car; the back seat and back of the car were covered in plastic. MORA's body was lying on the floor wrapped in a blanket in the laundry room. MORA's body was not mutilated at the house; the body was wrapped in a blanket and tarp.

The assault started in the living room and MORA was dragged into the other room. MORA was mostly hit in the face.

BOOBOO and BLACK moved MORA's body to ROMERO's HYUNDIA Santa Fe. The back seats were folded down with plastic laid down. DOMINGUEZ, BLACK and BOOBOO left with MORA's body; DOMINGUEZ came back about 20 minutes later but BLACK and BOOBOO did not return with him. After returning DOMINGUEZ laid down with ROMERO; DOMINGUEZ's foot was swollen and hurt from something.

DOMINGUEZ pushed MORA down. They yelled at MORA while assaulting her, yelling, "You took money, how could you sit at our table." MORA took the beating until she was unconscious. RAMOS complained that she wanted MORA to, "suffer" and was upset that "she was gone too easy."

MORA's body was wrapped in plastic that was once on the walls in the room where she was killed. RAMOS put up plastic beforehand to cover up the murder.

RAMOS said they had to get rid of the body quick so they, "lit it."

TORREZ hit MORA first. MORA was standing when the assault begin. When MORA walked into the house and looked around she knew what was about to happen. The only thing MORA said during the assault was, "That's enough." MORA tried to block blows and fell down. A couch flipped over when she fell. MORA was then pushed into the room. TORREZ and BOOBOO all had gloves on. BOOBOO was wearing batting gloves. RAMOS had socks on her hands. RAMOS also kicked MORA. They used string to tie

MORA to a green plastic chair.

2. 2021 account and description of the event

ROMERO stated she was at RAMOS' house and in RAMOS' bedroom with DOMINGUEZ. ROMERO heard RAMOS, MORA, and JAZMERA TORREZ come into the house at the same time. Once MORA was in the house, she was attacked by TORREZ,

BOOBOO, and RAMOS. DOMINGUEZ took a shotgun from the bedroom and went out to where MORA was being beaten. DOMINGUEZ hit MORA in the face with the shotgun. They were hitting MORA repeatedly in the face to the point her eye was hanging out of her eye socket. MORA was still conscious at that point.

MORA was stripped down to her bra and boy shorts and dragged by BOOBOO to another bedroom. It was TORREZ's bedroom, but she moved all of her stuff out and into a room across the hall the day before. The bedroom walls and floor were covered with plastic and there was a plastic chair in the room. They tied MORA to the plastic chair and continued to beat her.

ROMERO was given a bag that contained drugs and went back into RAMOS' bedroom to use the drugs. There was a lock on the outside of the bedroom door and ROMERO was locked into the room by herself. ROMERO could hear loud music playing and tried to get out of the room through the door and window but was unable to. ROMERO did not see what happened to MORA in the bedroom but was told afterwards. ROMERO saw MORA's body wrapped up and on the laundry room floor before it was taken. ROMERO was told they burned MORA's body but was not there when they did it.

3. Grand Jury statement in 2021

i. Co-conspirator description of the motivation to harm Mora, (p. 11-13)

16 Q. What happened?
17 A. Jessica stole money from her -- from us.
18 Q. Describe that. How did she steal the
19 money?
20 A. Crystal and I both gave her money to go get
21 us drugs from Albuquerque -- from here. And she just
22 never came back.
23 Come to find out later that Crystal's debit
24 card was missing, and she thought I stole it. Well,
25 a couple of weeks later, the bank called and said

12
1 they had the ATM footage of where her card was used,
2 and it was Jessica Mora that had used her credit
3 card -- her debit card.

13 Q. Approximately, how much was the total?

14 A. 1,400. I gave her 500 and Crystal gave her

15 500 to come and get us drugs, and then she stole the

16 400 from the ATM.

ii. Ramos' reaction to the theft, the plan and execution of the plan (pp. 14-18, 20, 21)

2 A. She was angry. She said she wanted to beat
3 her up and tie her to table while she ate.

4 Q. What do you mean by that? how did she
5 describe wanting to tie her to a table?

6 A. She said she wanted to sit her on a chair,
7 tie her arms back, her legs back, have her beat up
8 and bleeding while we ate at the table.

9 Q. What made her so upset that she wanted to
10 do that at the table?

11 A. Because Jessica stole from her, and while
12 knowing Jessica stole from her, she sat at the same
13 table, ate our food, and was interactive with
14 Jazmarie and Anthony, Crystal's kids, and acted like
15 nothing happened. So she wanted her to be there
16 suffering while we ate around the table.

17 Q. Was there a plan to do something about it?

18 A. She said she wanted to, but she never acted
19 on it. I never heard of a plan to do it. Just -- a
20 detailed plan. I just heard that she wanted to tie
21 her up and have her watch us while we eat, bloody.

22 Q. Now, was this sort of at the end of 2017,
23 or in early -- kind of mid January of 2018?

24 A. Yeah. It was before New Years.

25 Q. That she became upset?

1 A. Yeah.

2 Q. At some point did Jessica Mora come back to
3 the house?

4 A. Yes.

5 Q. And what were your thoughts on that?

6 A. At first I didn't know who it was. We were
7 in the master bathroom getting high, me and Jorge,
8 and I heard three voices and I couldn't figure out
9 who -- I know Crystal and Jazmarie's voice,
10 obviously. I couldn't picture who the third voice
11 was. I heard it, it was muffled. I asked who it
12 was, and Jorge told me I didn't need to worry about
13 it. It was none of my business.

14 And then you could hear them starting blow
15 torches to get high, and then all of sudden there's
16 arguing and a ruckus. And he opens the bathroom and
17 goes to the master bedroom door, and there is a
18 little slit in the master door. You could see the
19 living room through there.

20 He looks, and they're fighting. And he
21 opens the door and Jessica -- Jazmarie and Crystal
22 have Jessica Mora against the wall, beating her up.
23 When she sees us, she falls to the ground, and she
24 just covers herself.

25 Q. When you say you guys were "getting high,"

1 what drug were people using that day?

2 A. We were on meth, methamphetamines.

3 Q. What did -- so you said you saw Jessica
4 Mora fall to floor. What did you do?

5 A. I just watched her. I just looked at her
6 getting beat up. I mean, it's happened before. I
7 didn't ever have to participate in anything. It was
8 just kind of a drug deal gone wrong, you know, I
9 guess. They just started hitting her. It was
10 Jazmarie and Crystal at first. And then Jorge came
11 out, and as I was walking out of the master bedroom,
12 Boo Boo was coming out of the hallway, and they just
13 all started hitting her.

14 Q. And you said they were hitting her. Were
15 they using anything else to strike her?

16 A. Boo Boo had brass knuckles. He kept
17 hitting Jessica in the face. At one point her eye
18 bulged out -- kind popped out of its socket. Crystal
19 was hitting her. She had hands full of rings on.
20 Jazmarie was just using her hands and her feet.
21 Jorge hit her in the face with the tail end of a
22 shotgun.

23 Q. Did -- was Jorge participating in any of
24 the hitting or kicking?

25 A. He hit her in the face with the shotgun,

1 and that busted open her face.

2 Q. And then what happened after that?

3 A. After that, they stripped her down. I
4 don't remember seeing who stripped her, but they
5 stripped her, took her pants off and her shirt off.
6 She was crying and saying to stop. And she's laying
7 there, and Crystal and Jazmarie go into the
8 bedroom -- one of the bedrooms. And Jorge gives me
9 this bag full of drugs, and tells me to go and -- go
10 into the room. And I see Boo Boo pulling her.
11 Jessica is facing out, and he is dragging her
12 backwards to go into the room.

13 Jorge gives me the drugs, tells me to go
14 into the room, locks the padlock, turns on the music,
15 and that's it.

1 A. I had a padlock on my door so nobody would
2 steal my stuff, because there was always people in
3 and out of there. So there's a padlock on the
4 outside, and Jorge told me to go into the room, and
5 padlocked the door shut behind me.

6 Q. And you said there was loud music.

7 A. Yes.

8 Q. The room that they took Jessica Mora in, do
9 you know what was in that room?

10 A. There was nothing in the room. Just --
11 they covered the wall and the floor in plastic wrap.
12 Jazmarie was living there, but she moved out the day
13 before. She moved all of her stuff across the hall.
14 And Crystal said she wanted to paint it, so I didn't
15 see why there wasn't -- any problem why there was
16 plastic on the floor, but it was also up the walls.

3 Q. And at any point did either Crystal Ramos
4 or Jorge Dominguez -- did they describe what they had
5 done to Jessica Mora?

6 A. Crystal briefly told me that she strangled
7 Jessica, and she would just keep her hands around her
8 neck until she felt her life go, and right when she
9 was about to die, she let it go and let her come
10 back. A little bit after that Jessica just gave up.
11 She said, She died too easy. She died too fast.
12 They wanted to torture her.

13 Q. You mentioned that Jessica Mora's body was
14 in the laundry room wrapped up in the plastic?

15 A. Yes.

16 Q. What happened to the body?

17 A. A couple of minutes or hours after that
18 happened, we started smoking heroin. I remember Boo
19 Boo drug Jessica's body into the laundry room, went
20 in the front, got my car, brought it around back, and
21 I fell asleep. I nodded out, and when I woke up
22 everybody was gone.

8 A. I was -- like I said, I nodded out. When I
9 woke up, everyone was gone. A couple of hours later,
10 Crystal and Jazmarie show up -- Crystal and Jorge
11 show up in a big truck, and my car is gone.
12 Jessica's in the back, in a tote. In one of those
13 little things you buy at Walmart for 10 bucks. She
14 was in one of those, in the back of the truck.

15 Q. And what happens to the body then, after
16 she's in the tote?

17 A. She stays back there for a while. And then
18 Crystal takes off and comes back, and she is messed
19 up, and she is full of dirt and full of mud, like she
20 had been through hell and back. And she had gas cans
21 and she said she tried to dig a hole, but it was too
22 big and she was so tired, so she poured gasoline on
23 it and lit it on fire.

iii. Dominguez knew the plan (p.23)

2 Q. You asked what was going on? Did it appear
3 that Jorge knew what was going on?

4 A. Yes.

5 Q. And why do you say that?

6 A. Because he, for one, was never that nice to
7 me, never just gave me drugs, just because. And when
8 I asked him what happened, he kept, like, blocking
9 the door and telling me it was none of my business, I
10 don't need to worry about it. And, like, he knew
11 what was happening.

12 Q. And why do you say that? Is there a reason
13 why he knew, or why you think he knew what was going
14 on?

15 A. Because usually, a lot of commotion when
16 you're tweaking or you're high, you want to look, see
17 what it is. It could have been cops, could have been
18 anybody. And he just said, Don't worry about it.
19 You don't need to know who it is. You don't need to
20 know what's happening.

iv. Ramos directed son to turn up headphones (p. 24)

This shows there was a plan to commit the kidnapping. They had to purchase the headphones ahead of time. They warned the boy it was going to be loud and to stay in room, before the kidnapping and killing happened. This is evidence of the conspiracy, and her comments were made to further the goals of the conspiracy.

7 Q. You also mentioned that Crystal had a
8 younger son. Do you know where the younger son was?
9 A. He was in his room. Earlier that day
10 Crystal had given him headphones -- like, big
11 headphones, like the Bose headphones, and told him to
12 turn it up and leave it on, because it was going to
13 get loud. Just to leave them on.

E. Statements from Edward Archuleta

Co-conspirator Black told Edward Archuleta the plan with respect to Mora. Then it appears he was told the act was completed. The first part would describe the ongoing conspiracy, and could serve as a warning to others or potentially as recruiting for assistance with what was planned. Alternatively, this statement could come in as a statement against interest depending on whether or not Black testified. The statements was made by Edward Archuleta to FBI Agents Cobb and Marcum on July 10, 2018. The statement follows from the narrative of FBI Marcum's report:

JOHNNY told ARCHULETA they had to "take care" of somebody before for an unpaid debt, and made the comment "things happen to people and they disappear." JOHNNY told ARCHULETA they kidnapped MORA and CRYSTAL and JAZMERAES had something to do with it. JOHNNY was the muscle and told ARCHULETA they had to teach JAZMERAES how to be a "G" and "how to do it." JAZMERAES delivered the final blow to MORA. ARCHULETA didn't know where she

VI. CONCLUSION

For the foregoing reasons, the United States respectfully requests that this Court allow the above-described evidence in the prosecution's case-in-chief. The United States also seeks permission to amend this motion should additional evidence come to light. The United States seeks a pre-trial ruling on this motion and hearing if necessary.

Respectfully submitted,

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Electronically filed August 26, 2022

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I HEREBY CERTIFY that on August 26, 2022, I filed the foregoing electronically through the CM/ECF system, which caused all counsel of record to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

/s/ Filed Electronically
Nicholas Marshall
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